

REMARKS

Claims remaining in the present patent application are Claims 1 – 42.

35 USC § 102 Rejections

Claims 1, 8, 11-17, 19-21, 31, 38 and 41 stand rejected under 35 USC § 102(a) as allegedly being anticipated by <http://www.allrecipe.com> (“Allrecipe”). Applicants have reviewed the cited reference and respectfully assert that Allrecipe does not anticipate embodiments of the present invention as recited in Claims 1, 8, 11-17, 19-21, 31, 38 and 41.

Applicants respectfully assert that the rejection does not establish a publication date for Allrecipe, and that consequently this art does not meet the statutory requirement for rejection. The rejection does present a claim of “copyright February, 2000,” and an apparent retrieval date of May 13, 2004. However, the rejection fails to provide any evidence that the material presented in the screen shots included in the rejection and used as a basis for this rejection were, in fact, published prior to the priority date of the present application.

It is notoriously well known for websites to change. It is almost certain that the Allrecipe website has changed frequently between “February, 2000” and May 13, 2004. At the writing of this paper, Allrecipe displays a statement of “Copyright 2004” on its main page, indicating that the website may have in fact changed since “February 2000.”

Applicants respectfully assert that Allrecipe itself cites salient changes subsequent to the priority date of the present application. For example, Allrecipe documents that a “New Look & Feel (was) Introduced” in November 2000 (<http://allrecipes.com/help/aboutus/default.asp>). Applicants note that November 2000 is after the alleged copyright of “February, 2000,” and further is subsequent to the priority date of the present application.

As the rejection of these Claims depends upon the “Look and Feel” of Allrecipe, Applicants respectfully assert that there is no evidence that the “Look and Feel” of Allrecipe utilized as basis for this rejection was published before the invention of the present application.

Applicants respectfully assert that Claims 1, 8, 11-17, 19-21, 31, 38 and 41 overcome the rejections of record as the cited art does not meet the statutory requirement for rejection. As such, Applicants respectfully solicit allowance of these Claims.

Claims 2-21 depend from Claim 1, and Claims 32-41 depend from Claim 31. Applicants respectfully assert that these claims overcome the rejections of record as these Claims depend from allowable base claims, and respectfully solicit allowance of these Claims.

35 USC § 103 Rejections

Claims 2-7, 9-10, 18, 22-27, 28-30, 32-37, 40 and 42 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over <http://www.allrecipe.com>

(“Allrecipe”) and further in view of other cited art. Applicant has reviewed the cited reference and respectfully asserts that Allrecipe in view of other cited art does not render obvious the present invention as recited in Claims 2-7, 9-10, 18, 22-27, 28-30, 32-37, 40 and 42 because the Allrecipe reference is not statutory prior art.

As described above, Allrecipe does not meet the statutory requirement of “prior art.” As such, Applicants respectfully assert that all rejections dependent upon Allrecipe are overcome. For this reason, Applicants respectfully assert that Claims 2-7, 9-10, 18, 22-27, 28-30, 32-37, 40 and 42 overcome the rejections of record and respectfully solicit allowance of these Claims.

Applicants respectfully request that the Allrecipe reference be withdrawn from this case as a publication date has not been established.

CONCLUSION

Claims remaining in the present patent application are Claims 1 – 42.

Applicants have reviewed the following references which were cited but not relied upon and do not find these references to show or suggest the present claimed invention: US 5,832,446, US 6,097,016, US 5,704,350.


The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Please charge any additional fees or apply any credits to our PTO deposit account number: 23-0085.

Respectfully submitted,

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